

SAN DIEGO SUPERIOR COURT SMALL CLAIMS INFORMATION SHEET # 1

HOW TO NAME THE PARTIES

How to name the plaintiff on the Claim of Plaintiff

The individual or business filing the initial claim is the plaintiff. If the plaintiff is an individual operating or doing business under a fictitious business name and the claim relates to that business, he or she **MUST** name the business as plaintiff in the caption of the claim as well as himself individually. For example, John Smith who owns ABC Auto Parts must be named as John Smith doing business as (dba) ABC Auto Parts. Additionally, the plaintiff must submit a declaration stating the **fictitious business name statement number** (obtained from the Assessor/County Clerk/Recorder's Office) **and its date of expiration**. Ask the clerk in the Court's business office for a "Declaration re: Fictitious Name Statement". **If you do not have a current fictitious business name statement, you are legally prohibited from filing a lawsuit.**

If you are a contractor, auto mechanic, or any other professional required to be licensed by the State of California, you must be **validly licensed** to file a lawsuit. Be prepared to show the court proof of a valid license. If you cannot prove you have a valid license, your case will be dismissed.

In certain limited situations, someone other than the named party may represent the plaintiff or defendant at the small claims hearing. The representative must complete a **declaration authorizing representation**. Representation declaration forms are available at the small claims courtroom and in the business office. They may be completed on the day of the hearing. There are numerous restrictions on who can represent another party. Check with the small claims legal advisor regarding those restrictions.

How to name the defendant on the Claim of Plaintiff

IF DEFENDANT IS A(N)...	DESIGNATE AS...		
Individual	John Smith 111 1st Street San Diego, CA 92101		
Two or More Defendants	John Smith 111 1st Street San Diego, CA 92101	Mary Smith 111 1st Street San Diego, CA 92101	
Sole Proprietorship	John Smith, d.b.a. Smith's Candy Store 111 1st Street San Diego, CA 92101		
Partnership	ABC Candy Store, a partnership consisting of John Smith and Joe Jones, Partners Serve: John Smith 111 1st Street San Diego, CA 92101		
Partnership and Service on Partners as Individuals	ABC Candy Store, a partnership consisting of John Smith and Joe Jones, Partners San Diego, CA 92101 Serve: John Smith	John Smith, Ind. 111 1st Street San Diego, CA 92101	Joe Jones, Ind. 111 1st Street San Diego, CA 92101
Corporation	ABC Candy Store, Inc. Serve: John Smith, Auth. 111 1st Street San Diego, CA 92101		

**SAN DIEGO SUPERIOR COURT
SMALL CLAIMS INFORMATION SHEET # 1**

HOW TO NAME THE PARTIES

**HOW DO I KNOW IF THE BUSINESS I AM SUING IS A CORPORATION, PARTNERSHIP OR A
SOLE PROPRIETORSHIP?**

Legal Status It is very important to know the **legal status** of the business you are filing a claim against. If you fail to designate the business properly, you may be unable to proceed with your claim or enforce your judgment.

- Check the fictitious business Name Statement at the Fictitious Name Registry at the Assessor/Recorder/County Clerk's Office. This statement will give you the exact name of the business. Some regions have branch locations.
- Check with the Business License Office in the city where the business is located.
- If you have determined that the legal status of the business you are suing is a corporation, your claim must name either the corporation's agent for service of process or one of the corporation's officers as the person designated to receive service of the claim.

To obtain the corporate agent or officers names, write the Office of the Secretary of State in Sacramento located at 1500 11th St., Sacramento, CA 95814. You should call the Sacramento office at (916) 653-7315 in order to obtain information regarding the fees which must be included with your written request for information.

Corporate information is also available in person locally at the Office of the Secretary of State at 1350 Front Street in San Diego. A \$4.00 processing fee must be paid by check or money order only. No cash is accepted.